

Part II: Various Approaches to Self-Government

The Government recognizes that Indian, Inuit and Métis peoples have different needs, circumstances and aspirations, and want to exercise their inherent right in different ways. Some want their own governments on their land base; some want to work within wider public government structures; and some want institutional arrangements. The Government is prepared to support various approaches, taking into account differing needs and circumstances, and to be flexible on the specific arrangements which may be negotiated.

First Nations

Many First Nations have expressed a strong desire to control their own affairs and communities, and deliver programs and services better tailored to their own values and cultures. They want to replace the outdated provisions of the *Indian Act* with a modern partnership which preserves their special historic relationship with the federal government. Those First Nations which have entered into treaties with the Crown want to ensure that implementation of the inherent right will be consistent with the relationship established by their treaties. All First Nations want other governments to recognize their legitimacy and authority.

The Government of Canada is prepared to work with First Nations and other governments to address these aspirations. It is also prepared to work with Treaty First Nations to ensure that negotiated self-government agreements build on their treaties and the existing treaty relationship. The Government believes that its approach to implementing the inherent right will allow First Nations and governments to establish mutually satisfactory negotiation processes leading to agreements that will recognize the jurisdiction and authority of First Nations' governments. Finally, where the parties to negotiations agree, the Government is prepared to protect rights contained in self-government agreements as constitutionally protected rights under section 35 of the *Constitution Act, 1982*.

The Government recognizes that not all members of a First Nation live on the group's land base. The application of First Nation laws and the delivery of First Nation services to members who reside off the land base of the First Nation may be addressed in agreements with the provinces concerned. However, any such extra-territorial application of laws or receipt of services would be at the option of non-resident members and would have to take into account issues of feasibility and affordability.

Inuit Communities

Inuit groups in various parts of Canada have expressed a desire to address their self-government aspirations within the context of larger public government arrangements, even though they have, or will receive, their own separate land base as part of a comprehensive land claim settlement. The creation of the new territory of Nunavut is one example of such an arrangement on a large

scale. The Government is prepared to work with Inuit groups and other governments to arrive at effective agreements, and is willing to consider a variety of public government approaches. It is also prepared, where all parties agree, to use existing negotiations processes to the greatest extent possible. Public government arrangements will, of course, have to take into account the rights and interests of all people in the area covered by such arrangements.

The Government is also prepared to constitutionally protect rights negotiated in public government arrangements as section 35 rights where appropriate and if the parties to the negotiations agree. Such negotiations would necessarily include the provincial or territorial government in order to ensure harmonious intergovernmental relationships.

Self-government arrangements in a public government context do not preclude consideration of other arrangements at some future date, provided that all parties concerned are in agreement.

Métis and Indian Groups off a Land Base

Métis and Indian groups living off a land base have long professed their desire for a self-government process that will enable them to fulfil their aspirations to control and influence the important decisions that affect their lives. The Government is prepared to enter into negotiations with provinces and Métis and Indian groups residing off a land base which live south of the sixtieth parallel. The Government is also prepared, with provincial agreement, to protect rights in agreements as constitutionally-protected section 35 treaty rights. Negotiation processes may be initiated by the Aboriginal groups themselves and will be tailored to reflect their particular circumstances and objectives.

The Government of Canada recognizes the need for flexibility in developing self-government arrangements. As such, negotiations may consider a variety of approaches to self-government off a land base including:

- forms of public government;
- devolution of programs and services;
- the development of institutions providing services; and
- arrangements in those subject matters where it is feasible to exercise authority in the absence of a land base.

Many Métis groups have expressed the view that enumeration is an essential building block for self-government. The Government agrees and is prepared to cost share with provinces the enumeration of Métis and the identification of Indian people living off a land base who may be covered by self-government arrangements. This information will provide valuable input for the implementation of self-government for Métis and non-land based Indian groups.

The Government of Canada is prepared to discuss the provision of land, but only if it is deemed necessary and complementary to the management of a federal program or service that is transferred to a Métis or non-land based Indian group.

Métis with a Land Base

The Alberta Métis Settlements have also expressed interest in pursuing self-government as it applies to their specific circumstances. Consequently, the federal government, with the participation of the Government of Alberta, is also prepared to negotiate self-government arrangements with Métis people residing on Alberta Métis Settlements, which reflect their unique circumstances. Should lands be provided by other provinces to Métis people under similar regimes, the federal government would be prepared to negotiate similar arrangements, with the participation of the province in question.

Where the parties to negotiations agree, the Government is prepared to protect rights contained in self-government agreements with the Métis as constitutionally protected rights under section 35 of the *Constitution Act, 1982*.

As in the case of First Nation members residing off their land base, the application of Métis laws and delivery of Métis services to members who reside off the Métis land base may be addressed in negotiations with the provinces concerned. Any such extra-territorial application of laws or receipt of services would be at the option of non-resident members and would have to take into account issues of feasibility and affordability.

Self-Government in the Western Northwest Territories (NWT)

Aboriginal groups in the western NWT have a unique opportunity to develop self-government arrangements that are not readily available south of the sixtieth parallel. In the western NWT, the Government would prefer that the inherent right find expression primarily, although not exclusively, through public government. The Government believes that this approach is the best way to address the distinctive features of this region including: the demographic profile of the territory; the fact that many communities are mixed and that settlement lands under land claim settlements do not, in most cases, include the communities; and, finally, the decision to divide the Northwest Territories. Given these circumstances, and considering inefficiencies that may arise due to duplication of programs and services in mixed communities, the creation of completely separate Aboriginal governments in the western NWT may not be practical or efficient.

In the federal government's view, the self-government aspirations of Aboriginal peoples in the NWT can be addressed by providing specific guarantees within public government institutions. The creation of Aboriginal institutions to exercise certain authorities may also be a useful approach.

Issues related to overall territorial governance structures and related arrangements in the western NWT after division should be dealt with in other processes.

Self-Government in the Yukon

There are four First Nation self-government agreements which were brought into force by legislation in 1995 and processes are in place to continue negotiating with the remaining First

Nations in the Yukon. The federal government's participation in these negotiations will be guided by the inherent right policy and existing commitments.

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